

Zoning Board of Appeals - Special Permit

DECISION

Applicant: Delphine McBride

Date application filed with the Town Clerk: March 7, 2008

Nature of request: A Special Permit to design women's and girl's clothing, as a home occupation, under Section 5.013 of the Zoning Bylaw

Address: 46 Snell Street, (Map 14C, Parcel 63, R-N Zoning District)

Legal notice: Published on March 26 and April 2, 2008 in the Daily Hampshire Gazette and sent to abutters on March 25, 2008

Board members: Thomas Simpson, Hilda Greenbaum and Albert Woodhull

Submissions: The petitioner submitted a Management Plan, a floor plan, pictures of the working space and an Amherst GIS map of the property.

The zoning assistant submitted a memo concerning the application to the Zoning Bylaw, dated April 4, 2008

Site Visit: April 8, 2008

The Board met the applicant at the site. They observed the following:

- The location of the applicant's work area, the third floor of an early 20th century house formerly owned by Amherst College;
- The long driveway that can accommodate around 6 cars, plus a garage;
- The location of the property on a busy through street, next to South Pleasant Street and Amherst College.

Public Hearing: April 10, 2008

The petitioner spoke to the application at the hearing. She gave the following information:

- She would like a Special Permit to design and make one copy of a line of women's and girl's clothing;
- She uses two rooms on the third floor of her home as a cutting/sewing room and an office;
- She produces one sample of 40-50 different designs per season;
- She will contract out for manufacturing;
- After designing, she will cut and sew the clothing;
- She will have occasional deliveries of fabric, but will use the same fabric for all the designs of the season;
- There are no employees other than herself, but eventually she may have up to two employees to help produce the garments;
- There will be no customer flow, and very few deliveries, so the business will not add to the traffic on the street;
- She will visit the clothing contractors, either at trade shows or personal appointments;

- She has previously done business in New York City, Atlanta, Chicago, Las Vegas, Los Angeles, etc;
- Her degree is in fashion design, but she also has worked as a textile stylist;
- She has designed fabrics for home furnishing, and sold to Wal-Mart, Target, and Waverly;
- She has been freelancing since 1990 for home furnishings;
- She designs for one year in advance; currently she is working on 40 pieces of clothing for the spring of 2009, and 40 more designs for the fall of 2009;
- She received 1000 yards of the same fabric for her designs about 6 months ago;
- She will receive UPS packages about once or twice per week, similar to regular households.

Mr. Woodhull observed that the applicant's business seems closer to the category of office or studio of an artist. He wondered why the applicant even needs a Special Permit, since Section 5.012 of the Bylaw for the office or studio of an artist does not need a Special Permit.

Ms. Greenbaum noted that the ZBA can give a permit for a business that may be larger in the future. The applicant said that is why she wants a Special Permit.

Building Commissioner Ms. Weeks added that a Special Permit gives protection to the applicant for a longer amount of time.

Ms. Greenbaum asked if she would be selling on the internet. The applicant said not yet, but she is beginning to work on a website for her new business.

Mr. Simpson noted that some documents associated with the permit are not complete. Ms. McBride said that she and her husband have been negotiating with the Town. They will have things finalized by May 1, 2008.

The Board considered the application, and agreed that it would be best to continue the hearing until after May 1st. To that end, Mr. Simpson made a motion to continue the hearing until May 8, 2008 at 7:30 p.m. Ms. Greenbaum seconded the motion, and the vote was unanimous to continue the hearing to May 8, 2008, 7:30 p.m.

Continued Public Hearing: May 8, 2008

After receiving the relevant information concerning the property, the Board was satisfied that all testimony had been taken and that they were ready to make a decision.

Ms. Greenbaum made a motion to close the hearing. Mr. Woodhull seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

Board members supported the proposal, and the Board spent the public meeting discussing findings required and conditions of a Special Permit for the business.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because it will be a home business with no outside evidence of the business.

10.382, 10.383 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because there will be no outward sign of

the business, and a sewing machine will make very little noise outside of the house. Other homes in the area are at least 500 feet distant. The business has just one employee at present and may grow, but to no more than three employees.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because equipment associated with the home business is minimal – two rooms with a sewing machine, cutting table and space. Deliveries will be minimal, by Fed Ex or UPS about once per week.

10.391 – The proposal protects the important natural or historic features of the site, because no change will be made to the exterior. All activity will be indoors.

10.393 – The proposal provides protection of adjacent properties since there will be no evidence of the business in terms of noise or visual effect outside of the home.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst while promoting economic activity.

Public Meeting – Zoning Board Decision

Ms. Greenbaum made a motion to APPROVE the proposal for a home occupation of clothing designer, with conditions. Mr. Woodhull seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit to Delphine G. McBride to design women's and girl's clothing as a home occupation under Section 5.013 of the Zoning Bylaw, at 46 Snell Street, (Map 14C , Parcel 63, R-N Zoning District)

THOMAS SIMPSON

HILDA GREENBAUM

ALBERT WOODHULL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Delphine G. McBride to design women's and girl's clothing as a home occupation under Section 5.013 of the Zoning Bylaw, at 46 Snell Street, (Map 14C, Parcel 63, R-N Zoning District) subject to the following conditions:

1. There shall be no more than two employees in addition to the applicant.
2. Deliveries shall be made during normal business hours, Monday through Saturday, 8 AM to 5:30 PM.
3. The business shall be managed according to the Management Plan approved by the Board at a public meeting on May 10, 2008.
4. There shall be no retail business operated on the property.
5. This permit expires if the applicant ceases to operate the business from the property.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE